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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

IN RE PACIFIC FERTILITY CENTER  
LITIGATION

This Document Relates To All Cases

Case No. 3:18-cv-01586-JSC

**PLAINTIFFS' STATEMENT  
REGARDING STAY PENDING  
APPEAL**

Judge: Hon. Jacqueline Scott Corley

Pursuant to the Court's November 12, 2021 Order (ECF No. 1000) and in advance of the status conference scheduled for December 7, 2021, Plaintiffs submit this statement indicating their position regarding whether the consolidated related actions should be stayed pending Chart's appeal of the judgment in the first action.

In light of the precedent of staying cases pending appeal of a related action which may have preclusive effect,<sup>1</sup> Plaintiffs are amenable to a stay of proceedings in these consolidated related actions pending resolution of Chart's appeal of the first trial judgment.

However, to allow the Parties to move expeditiously into trying the remaining cases once the stay is lifted, Plaintiffs respectfully request that the Court allow the parties to complete during the pendency of Chart's appeal the limited punitive damages discovery that was initiated in mid-2021. Plaintiffs served an amended Rule 30(b)(6) deposition notice and an amended Eighth Set of Requests for Production of Documents on October 5 as allowed by the Court's September 23 Order (ECF No. 949); to date, Chart has not responded to either the notice or the document requests. Plaintiffs propose that Chart produce its written responses to the Eighth Set of Requests for Production of Documents by December 10, responsive documents by January 31, 2022, and its corporate representative for a Rule 30(b)(6) deposition to occur no later than February 28, 2022.

Additionally, if the judgment is affirmed on appeal, Plaintiffs respectfully request that they be permitted to file a renewed motion for partial summary judgment seeking collateral estoppel within one week of when the Ninth Circuit issues its mandate.

Dated: December 1, 2021

Respectfully submitted,

By: /s/ Amy M. Zeman

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<sup>1</sup> See, e.g., ECF No. 1000 at 10 (citing *Larsen v. City of Los Angeles*, No. 12-04392, 2012 WL 12887557, at \*8 (C.D. Cal. Aug. 3, 2012); *Stafford v. Rite Aid Corp.*, No. 17-01340 AJB-JLB, 2020 WL 4366014, at \*5 (S.D. Cal. July 30, 2020; *Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 863-64 (9th Cir. 1979).

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